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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/032,116	12/21/2001	Rod Walsh	4208-4041	7018
27123 7590 08/26/2008 MORGAN & FINNEGAN, L.L.P. 3 WORLD FINANCIAL CENTER NEW YORK, NY 10281-2101				
EXAMINER				
VU, THONG H				
ART UNIT		PAPER NUMBER		
2619				
NOTIFICATION DATE		DELIVERY MODE		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/032,116

Applicant(s)

WALSH ET AL.

Examiner

Thong H. Vu

Art Unit

2619

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 June 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 24-65 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 24-65 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

1. Claims 24-65 are pending.

Response to Arguments

2. Applicant's arguments, see pages 2-4, filed 6/30/08, with respect to the rejection(s) of claim(s) 24-65 under Voit-Powell have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Gerace-Obradovich.

Claim Rejections - 35 USC § 103

Claims 24-34,44-54 and 64 rejected under 35 U.S.C. 103(a) as being unpatentable over Gerace et al [Gerace 6,424,657] in view of OBradovich et al [Obradovich 6,987,964 B2].

3. Claim 24, Gerace discloses A method, comprising:

monitoring an interaction network [Gerace, tracking the records of Internet users, col 2 lines 15-42; interactivity, col 1 lines 30-43];

obtaining one or more measurement values (i.e.: user demand is measured by using a web hit monitor) corresponding to the monitoring of the interaction network [Gerace, tracked/monitored and records or obtains the numbers of hits, col 12 lines 7-21];

selecting data, wherein selection is based upon one or more of the measurement values corresponding to the monitoring of the interaction network [Gerace, calculate the rank based on number of hits, col 15 lines 10-25; based on recorded details, user selects an advertisement, col 17 lines 1-17];

However Gerace does not explicitly detail

sending the selected data over a multicast network.

In the same endeavor, Obradovich taught an Internet environment [Obradovich, col 4 line 49]; monitoring the condition in one of the vehicles or network devices [Obradovich, col 19 line 61]; keep track of a number of hits of each advertiser [Obradovich, col 15 lines 40-61]; send message or data over multicast network [Obradovich, col 5 lines 4-23].

Therefore it would have been obvious to an ordinary skill in the art at the time the invention was made to incorporate the technique of sending a message of data via multicast network as taught by Obradovich into the Gerace's apparatus in order to utilize the Internet services.

Doing so would provide the sufficient information to specific Internet user groups.

4. Claim 44, Gerace discloses An apparatus, comprising:

a memory having program code stored therein; and a processor disposed in communication with the memory for carrying out instructions in accordance with the stored program code [Gerace a server with software program, col 3 lines 39-67];

wherein the program code, when executed by the processor, causes the processor to perform monitoring an interaction network [Gerace, tracking the records of Internet users, col 2 lines 15-42; interactivity, col 1 lines 30-43];

obtaining one or more measurement values corresponding to the monitoring of the interaction network selecting data, wherein selection is based upon one or more of the measurement values corresponding to the monitoring of the interaction network

[Gerace, calculate the rank based on number of hits, col 15 lines 10-25; based on recorded details, user selects an advertisement, col 17 lines 1-17];

However Gerace does not explicitly detail
sending the selected data over a multicast network.

In the same endeavor, Obradovich taught an Internet environment [Obradovich, col 4 line 49]; monitoring the condition in one of the vehicles or network devices [Obradovich, col 19 line 61]; keep track of a number of hits of each advertiser [Obradovich, col 15 lines 40-61]; send message or data over multicast network [Obradovich, col 5 lines 4-23].

Therefore it would have been obvious to an ordinary skill in the art at the time the invention was made to incorporate the technique of sending a message of data via multicast network as taught by Obradovich into the Gerace's apparatus in order to utilize the Internet services.

Doing so would provide the sufficient information to the specific Internet user groups.

5. Claim 45, Gerace discloses the multicast network is unidirectional as a design choice.
6. Claim 46, Gerace discloses the interaction network is bidirectional [Gerace, interactivity, col 1 lines 30-43].
7. Claim 47, Gerace discloses in monitoring the interaction network, a predetermined number of requests for a page are recognized, and wherein selecting the data comprises selecting a promotional file [Gerace, promoted, col 19 lines 53].

8. Claim 48, Gerace discloses the data is selected based upon number of requests for the data [Gerace, calculate the rank based on number of hits, col 15 lines 10-25].

9. Claim 49, Gerace discloses the data is selected based upon number of requests for the data that originate from a broadcast cell [Gerace, broadcast, col 36 line 52].

10. Claim 50, Gerace discloses selecting the data comprises prediction based on normal subsequent data choice as inherent feature of selection process.

11. Claim 51, Gerace discloses the data is selected based upon chance of link from requested data being followed [Gerace, link or hyperlink, col 6 lines 46-57].

12. Claim 52, Gerace discloses a sponsor policy is employed as inherent feature of advertisement software.

13. Claim 53, Gerace discloses the monitoring comprises employment of a network management agent as inherent feature of monitoring process.

14. Claim 54, Gerace discloses the monitoring comprises employment of a proxy as inherent feature of Internet.

15. Claim 64, Gerace discloses An article of manufacture comprising a computer readable medium containing program code that when executed causes an apparatus to perform [Gerace, a server with software program, col 3 lines 39-67]:
monitoring an interaction network [Gerace, tracking the records of Internet users, col 2 lines 15-42; interactivity, col 1 lines 30-43];
obtaining one or more measurement values corresponding to the monitoring of the interaction network; selecting data, wherein selection is based upon one or more of the

measurement values corresponding to the monitoring of the interaction network [Gerace, calculate the rank based on number of hits, col 15 lines 10-25; based on recorded details, user selects an advertisement, col 17 lines 1-17];

However Gerace does not explicitly detail
sending the selected data over a multicast network.

In the same endeavor, Obradovich taught an Internet environment [Obradovich, col 4 line 49]; monitoring the condition in one of the vehicles or network devices [Obradovich, col 19 line 61]; keep track of a number of hits of each advertiser [Obradovich, col 15 lines 40-61]; send message or data over multicast network [Obradovich, col 5 lines 4-23].

Therefore it would have been obvious to an ordinary skill in the art at the time the invention was made to incorporate the technique of sending a message of data via multicast network as taught by Obradovich into the Gerace's apparatus in order to utilize the Internet services.

Doing so would provide the sufficient information to the specific Internet user groups.

16. Claims 25-34 contain the identical limitations set forth in claims 45-54. Therefore claims 25-34 rejected for the same rationale set forth in claims 45-54.

Claim Rejections - 35 USC § 103

Claims 35-43,55-63 and 65 rejected under 35 U.S.C. 103(a) as being unpatentable over Gerace et al [Gerace 6,424,657] in view of Powell et al [Powell 2002/0073167 A1].

17. Claim 35, Gerace discloses A method, comprising:

providing, via an interaction network [Gerace, tracking the records of Internet users, col 2 lines 15-42; interactivity, col 1 lines 30-43], one or more requests; and receiving, (over a multicast network), wherein monitoring of the interaction network is performed, wherein one or more measurement values corresponding to the monitoring of the interaction network are obtained, and wherein selection of the data is based upon one or more of the measurement values corresponding to the monitoring of the interaction network [Gerace, records the number of hits and tracked/monitoring, col 12 lines 7-21; calculates the rank based on the hits values, col 15 lines 10-25; user selects an advertisement based on recorded details, col 17 lines 1-17].

However Gerace does not explicitly detail selected data through a local proxy and multicast network.

In the same endeavor, Powell taught a multicast, unicast environment [Powell, 0034]; the system monitoring the objects and obtained by the local proxy [Powell, 0183]. Therefore it would have been obvious to an ordinary skill in the art at the time the invention was made to incorporate the technique of selecting data or object through a local proxy as taught by Powell in order to utilize the monitoring process on multicast network.

Doing so would provide an improved manner of locally determining which digital content is likely to be most popular to local users.

18. Claim 45, the combination of Gerace and Powell discloses the multicast network is unidirectional [Powell, unicast environment, 0034].

19. Claim 46, Gerace discloses the interaction network is bidirectional [Gerace, interactivity, col 1 lines 30-43].
20. Claim 47, Gerace discloses in monitoring the interaction network, a predetermined number of requests for a page are recognized, and wherein selecting the data comprises selecting a promotional file as inherent feature of data selection process [Gerace, promoted, col 19 lines 53].
21. Claim 48, Gerace discloses the data is selected based upon number of requests for the data [Gerace, calculate the rank based on number of hits, col 15 lines 10-25].
22. Claim 49, Gerace discloses the data is selected based upon number of requests for the data that originate from a broadcast cell [Gerace, broadcast, col 36 line 52].
23. Claim 50, Gerace discloses selecting the data comprises prediction based on normal subsequent data choice as inherent feature of selection process.
24. Claim 51, Gerace discloses the data is selected based upon chance of link from requested data being followed [Gerace, link or hyperlink, col 6 lines 46-57].
25. Claim 52, Gerace discloses a sponsor policy is employed as inherent feature of advertisement software.
26. Claim 53, the combination of Gerace and Powell discloses the monitoring comprises employment of a network management agent [Powell, management module, 0072;0077].
27. Claim 54, the combination of Gerace and Powell discloses the monitoring comprises employment of a proxy [Powell, proxy server, 0030].

28. Claim 55, Gerace discloses An apparatus, comprising:

a memory having program code stored therein; and a processor disposed in communication with the memory for carrying out instructions in accordance with the stored program code; wherein the program code, when executed by the processor, causes the processor to perform [Gerace, a server with software program, col 3 lines 39-67]:

providing, via an interaction network [Gerace, tracking the records of Internet users, col 2 lines 15-42; interactivity, col 1 lines 30-43], one or more requests; and receiving, (over a multicast network), wherein monitoring of the interaction network is performed, wherein one or more measurement values corresponding to the monitoring of the interaction network are obtained, and wherein selection of the data is based upon one or more of the measurement values corresponding to the monitoring of the interaction network [Gerace, records the number of hits and tracked/monitoring, col 12 lines 7-21; calculates the rank based on the hits values, col 15 lines 10-25; user selects an advertisement based on recorded details, col 17 lines 1-17].

However Gerace does not explicitly detail selected data through a local proxy and multicast network.

In the same endeavor, Powell taught a multicast, unicast environment [Powell, 0034]; the system monitoring the objects and obtained by the local proxy [Powell, 0183].

Therefore it would have been obvious to an ordinary skill in the art at the time the invention was made to incorporate the technique of selecting data or object through a

local proxy as taught by Powell in order to utilize the monitoring process on multicast network.

Doing so would provide an improved manner of locally determining which digital content is likely to be most popular to local users.

29. Claim 65, Gerace discloses An article of manufacture comprising a computer readable medium containing program code that when executed causes an apparatus to perform [Gerace, a server with software program, col 3 liens 39-67]:
providing, via an interaction network [Gerace, Internet and interactivity, col 1 lines 30-43], one or more requests; and
receiving, (over a multicast network), wherein monitoring of the interaction network is performed, wherein one or more measurement values corresponding to the monitoring of the interaction network are obtained, and wherein selection of the data is based upon one or more of the measurement values corresponding to the monitoring of the interaction network [Gerace, records the number of hits and tracked/monitoring, col 12 lines 7-21; calculates the rank based on the hits values, col 15 lines 10-25; user selects an advertisement based on recorded details, col 17 lines 1-17].

However Gerace does not explicitly detail selected data through a local proxy and multicast network.

In the same endeavor, Powell taught a multicast, unicast environment [Powell, 0034]; the system monitoring the objects and obtained by the local proxy [Powell, 0183].

Therefore it would have been obvious to an ordinary skill in the art at the time the invention was made to incorporate the technique of selecting data or object through a local proxy as taught by Powell in order to utilize the monitoring process on multicast network.

Doing so would provide an improved manner of locally determining which digital content is likely to be most popular to local users.

30. Claims 56-63 contain the identical limitations set forth in claims 36-43. Therefore claims 56-63 rejected for the same rationale set forth in claims 36-43.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thong H. Vu whose telephone number is 571-272-3904. The examiner can normally be reached on 6:00-3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jay Patel can be reached on 571-272-2988. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Thong H Vu/
Primary Examiner, Art Unit 2619